

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM; CREEKMORE PARK COMMUNITY CENTER
January 9, 2018 - 5:30 P.M.**

On roll call, the following Commissioners were present: Bob Cooper, Jr., Marshall Sharpe, Josh Carson, Talicia Richardson, Shane Laster, Don Keese, Kelly Wilson, Rett Taylor and Vicki Newton.

Chairman Sharpe then called for the vote on the minutes from the December 12, 2017, meeting. Chairman Sharpe noted that there was an incorrect date on page 3 and two item numbers on pages 6 and 7 were incorrect. A motion was made and seconded to approve the minutes as corrected.

Ms. Brenda Andrews spoke on the procedures.

1. Rezoning Application #24-11-17; A request by Billy Ward, owner, for a zone change from Transitional (T) to a Planned Zoning District (PZD) located at 2215 North 58th Street.

Brenda Andrews read the staff report indicating that the applicant had requested that the application be tabled at the December Planning Commission meeting. She mentioned that the approval of the zoning would allow the development of a motorcycle and ATV sales and service center. Ms. Andrews noted that the applicant had submitted an updated Land Use Chart for the uses allowed in the proposed PZD.

Ms. Andrews described adjacent surrounding properties in regard to zoning and development, which included single-family residential development to the south and west of the applicant's property. She stated that the project proposed two driveways on North 58th Street, a detention pond, landscaping/green space adjacent to North 58th Street, 33 parking spaces, and signage standards that would comply with the UDO commercial and industrial standards.

Ms. Andrews stated that the applicant held a neighborhood meeting on September 28, 2017, and three neighboring property owners attended the meeting. She stated that the property owners had questions about delivery times, fencing, building height, number of employees, work schedules, noise, traffic, drainage, and site lighting.

Ms. Andrews stated that a motorcycle and ATV sales and service business is permitted in the Commercial Heavy (C-5) and Industrial zoning districts. She noted that these zoning districts require a minimum of a Minor Arterial street classification and that North 58th Street was classified as a local road classification. She further stated that the property's existing Master Land Use Classification was Commercial Neighborhood and was not compatible with the heavy commercial or industrial zoning districts.

Ms. Andrews also stated that the PZD Booklet was incomplete and did not have the required information on the following items: 1) how the project would exceed the UDO minimum standards; and 2) traffic information. Ms. Andrews also noted that the PZD booklet stated that test drives would be conducted on the property between North 58th Street and the Interstate. She stated that this property was not part of the requested rezoning application. She further stated that the PZD booklet proposed a 40' pole sign for the development, which was not compatible to the neighborhood, in staff's opinion.

Ms. Andrews stated that it was the staff's opinion that a motorcycle and ATV sales and service center at this location was not compatible with the surrounding area and did not recommend approval. She stated if the planning commission was inclined to recommend approval of the rezoning, staff recommended that approval was contingent upon a submitted development plan for the planning commission's approval prior to the issuance of a building permit.

The applicant, Mr. Billy Ward of 8209 Cleburne Court, spoke. Mr. Ward stated that the plan addressed many of the adjacent property owners concerns, such as moving the delivery area to the front of the building.

Commissioner Keesee addressed Mr. Ward regarding the compatibility of the proposed project to the neighborhood. Commissioner Keesee stated that if the Planning Commission approved the request it would completely go against the UDO for signs, street classification, and other details. Mr. Ward stated that he believed the proposed development would fit the area because it was located near a major interchange along I-540. Regarding the adjacent residential, Mr. Ward stated that the development would have an 8' privacy fence instead of a 6' fence and pine trees planted every 10 feet. He further stated that the building would probably block noise coming from the interstate.

Commissioner Taylor questioned Mr. Ward about how the proposed business planned to address customer test drives so that they would not be a nuisance to the neighborhood. Mr. Ward stated that the test drives would not be conducted in the neighborhood.

Commissioner Richardson stated that the neighborhood would be better served by other types of development such, as coffee shops, restaurants, or other commercial development that would complement the neighborhood. She stated that she did not believe the proposed development was good for the neighborhood. She also mentioned that if the motorcycle shop left, then another use that was permitted by the PZD might be more offensive to the neighborhood.

Tom Wheeler introduced himself and stated that it was unlikely that someone would want to put a coffee shop at this location and compete with McDonalds.

No one was present to speak in opposition of the rezoning.

Chairman Sharpe called for a vote on the rezoning with staff comments. Motion was made, seconded, and carried to approve the request subject to the following:

- The PZD Booklet shall be edited to address staff comments.

The vote was 3 in favor (Cooper, Laster, and Sharpe) and 6 opposed. Chairman Sharpe announced the item was not approved.

2. Home Occupation #1-1-18; A request by Karen Infield for a home occupation for a counseling office business located at 3004 Jenny Lind Road.

Ms. Andrews read the staff report stating that approval of the home occupation would allow a counseling office to be operated from the applicant's home and parking spaces would be available on the existing drive. Ms. Andrews stated that the Planning Staff recommended approval of the application subject to the staff comments. She further mentioned that Ms. Infield sent an e-mail stating she could not attend the meeting due to illness.

No one was present to speak in favor or opposition of the application.

Chairman Sharpe called for a vote on the home occupation with staff comments. Motion was made, seconded, and carried to approve the request subject to the UDO Home Occupation Requirements – Section 27-338-4F.

The vote was 9 in favor.

- 3. A request by David Conyers, Studio 6 Architects, agent for ERC Holdings, LLC, for development plan approval for a multifamily development located at 8208 Huntington Circle (Companion to item #4).**
- 4. Variance #1-1-18; A request by David Conyers, Studio 6 Architects, agent for ERC Holdings, LLC, for: 1) an interior side-yard setback from 30' to 25'; 2) from Section 27-602-4-D(5)(h) required percentage of private outdoor yard, patio, or balcony; and 3) from Section 27-602-4D(5)(i) multifamily buildings roof design requirements at 8208 Huntington Circle (Companion to item #3).**

Brenda Andrews informed the commissioners that the applicant sent an e-mail requesting that both items be tabled up to 60 days.

Chairman Sharpe called for a vote to table the items for up to 60 days. Motion was made and seconded to table both items.

The vote to table item #3 was passed 9 votes in favor 0 opposed.

The vote to table item #4 was passed 9 votes in favor 0 opposed.

5. Conditional Use #1-1-18; A request by Tim Sullivan, pastor and agent for Northside United Pentecostal Church, for a conditional use for a new church sanctuary building located at 3700 Kelly Hwy (Companion to item #6).

Brenda Andrews read the staff report for the conditional use and variance applications describing the project. Ms. Andrews stated that approval of the conditional use and variance would allow the construction of a 26,500 s.f. church sanctuary/education building. Ms. Andrews stated that the variance would allow the postponement of screening on the west side of the property adjoining undeveloped property until the property developed as residential

Blake Peacock with Hawkins Weir Engineering was present to speak for the application. He stated they had sent letters to the owner of the adjacent property to the west but the owner had not contacted them.

No neighbors were present to speak in favor or opposition to the applications.

Chairman Sharpe called for a vote on the conditional use with staff comments. Motion was made, seconded, and carried approving the request subject to the following:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
- A sign permit application for the proposed monument sign and wall sign shall be submitted for staff review and approval. The proposed monument shall also be a minimum of 10 feet from the existing water line.
- Exterior light fixture details shall be submitted with the building permit submittals and in compliance with the Commercial and Outdoor Lighting regulations.
- BZA approval of the companion variance application requesting elimination of a 6' privacy fence on the west property line.

The vote was 9 in favor. Chairman Sharpe announced the item passed

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6. Variance #2-1-18 ; A request by Tim Sullivan, pastor and agent for Northside United Pentecostal Church, from Section 27-602-4-C(8) a permanent six-foot screening fence, wall or landscape buffer adjacent to property zoned for residential purposes on the west side of the development located at 3700 Kelly Hwy (Companion to items #5).

Chairman Sharpe called for a vote on the variance use with staff comments. Motion was made, seconded, and carried to approve the application subject to the following:

- The required screening along the west side of the property will be installed upon development of the adjoining property as residential.

The vote was 9 in favor.

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- 7. Conditional Use #2-1-18; A request by Kelly Wilson, agent for KMW Properties, LLC, for a conditional use for a restaurant with outdoor dining located at 4501 Phoenix Avenue (Companion to item #8).**

Brenda Andrews read the staff report for the conditional use and companion variance application. Ms. Andrews stated approval of the requests would allow a 14 seat outdoor dining area for a restaurant. She stated that the variance would allow three signs containing information beyond the business name and/or logo in compliance with the Phoenix Avenue Overlay District signage regulations.

Kelly Wilson was present to speak about the project. No neighbors were present to speak in favor or opposition to the conditional use request.

Chairman Sharpe called for a vote on the conditional use. Motion was made, seconded, and carried to approve the application subject to the following:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
- All music (live or electronic) must comply with the attached Fort Smith Noise ordinance Section 16-41 in the Fort Smith Municipal Code.

The vote was 8 in favor and one abstention (Kelly Wilson).

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- 8. Variance #3-1-18; A request by Kelly Wilson, agent for KMW Properties, LLC, for a sign variance from Section 27-440(B)6 content of wall sign is limited to name and/or logo of the business. Located at 4501 Phoenix Avenue (companion to item #7).**

Brenda Andrews read the staff stating that three proposed signs would contain information beyond what was allowed by the signage regulations for the Phoenix Avenue Overlay District. She

stated that the variance would allow a wall sign with an emblem on the west elevation with information regarding donation of meals to hungry children, and two signs on the outdoor dining area with the word “tacos” on each sign. Ms. Andrews stated that the applicant stated that their hardship was due to the company wanting to keep the same signage as their business model.

Kelly Wilson, as agent for the applicant, stated that the signs were the prototype signage for the company. She stated that the company is located only in Arkansas and the signage proposed is the same at all of the locations. Commissioner Sharpe stated that, in his opinion, adding tacos to the building was not needed. Ms. Wilson stated that the information on the signs was more about branding for the business.

Commissioner Carson also stated that he believed the information was more about branding versus a sign.

Chairman Sharpe called for a vote on the variance. Motion was made, seconded, and carried to approve the variance.

The vote was 7 in favor, 1 opposed (Sharpe) and one abstention (Kelly Wilson).

In other business, there was discussion regarding a UDO amendment that would allow signage branding. Commissioner Laster stated that he believed that the variance process was the best way for the commission to consider signs that did not meet the regulations. Upon further discussion Commissioner Carson moved and Commissioner Richardson seconded the motion for staff to develop an amendment that would allow signage theming. The motion carried.

There being no further business, the meeting adjourned at approximately 7:00 p.m.